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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,348	06/23/2003	Pascal Audinot	TIF-33831	1230

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EXAMINER
HANNON, CHRISTIAN A

ART UNIT	PAPER NUMBER
2618	

NOTIFICATION DATE	DELIVERY MODE
09/05/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/601,348

Applicant(s)

AUDINOT ET AL.

Examiner

Christian A. Hannon

Art Unit

2618

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

CH 8/24/2007

Continuation of 11. does NOT place the application in condition for allowance because: Regarding claims 1, 7 & 13, the applicant goes through great lengths to define why their invention is patentable over the prior art, however the examiner has taken the claim language in its broadest possible interpretation and is maintaining the rejection. Specifically regarding the applicants argument that "Motley lacks 'direct' gain determination" (Applicant Remarks Page 9), the examiner disagrees. The term direct as defined is 'to regulate or conduct the affairs of', the use of this term with a lack of further defining circuit architecture in the claim is read on by Motley. Motley shows that the A/D converter 19 outputs a signal which is used to regulate the gain of an RF signal. Whether or not the applicant wishes to believe that the circuits between Motley's MSB and the AGC amplifiers are considered an AGC amplifier is moot. The applicants claim read that the "adjustable gain control circuitry." The examiner thanks the applicant for the through discussion of what an AGC amplifier is, and wishes that the applicant will see that the examiner has examined the claims and not the applicants specification. In response to the applicants assertion that Motley does not consider parts 61, 59 & 60 as an AGC, this is incorrect. Motley, in the applicant cited passage, is defining the prior art, his invention which Motley so labels as Item 17 the AGC (Column 4, Lines 33-35; Motley) actually comprises Items 59 & 61, and as item 60 is integral to the functional invention of Motley the examiner has taken it to be part of the AGC. In response the applicants third assertion that Motley does direct monitoring, not direct control, the examiner maintains that Motley shows direct or "regulation of the amplifiers affairs" of an AGC by the output of a bit signal at the output of the A/D converter. With no further defining claim limitations the examiner maintains that Motley reads on the currently recited claim language. In response to applicants assertion that Motley fails to teach a "single sample" the examiner respectfully disagrees, Motley teaches that the last sample before a count reaches a threshold is the ultimate determiner of whether or not a gain increase or decrease or neither is applied to the signal in the receiver, it is the last sample that ultimately determines the instantaneous change. In response to applicants arguments of dependent claims 22-24, the applicant maintains that as Motley teaches fine and coarse gain control and as an example those being defined as ± 0.5 db & ± 3 db respectively, therefore it is possible for Motley to boost the gain 3.5 db or just boost the gain .5 db thereby teaching 'different thresholds' where of course one side effect would be preventing hysteresis. For the reasons stated herein all rejections are maintained.


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